

**CITY OF BOULDER**  
**PLANNING BOARD ACTION MINUTES**  
**August 18, 2016**  
**1777 Broadway, Council Chambers**

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**PLANNING BOARD MEMBERS PRESENT:**

John Gerstle, Chair  
Liz Payton, Vice Chair  
Bryan Bowen  
John Putnam  
Leonard May  
Harmon Zuckerman

**PLANNING BOARD MEMBERS ABSENT:**

Crystal Gray

**STAFF PRESENT:**

Charles Ferro, Development Review Manager  
Hella Pannewig, Assistant City Attorney  
Cindy Spence, Administrative Specialist III  
Chris Meschuk, Senior Planner  
Kathy Haddock, Senior Assistant City Attorney  
Elaine McLaughlin, Senior Planner

**1. CALL TO ORDER**

Chair, **J. Gerstle**, declared a quorum at 6:04 p.m. and the following business was conducted.

**2. APPROVAL OF MINUTES**

On a motion by **B. Bowen** and seconded by **L. Payton** the Planning Board voted 6-0 (**C. Gray** absent) to approve the August 4, 2016 minutes as amended.

**3. PUBLIC PARTICIPATION**

1. **Kari Palazzari** invited the Planning Board members to participate as judges at the Chili Bowl event on September 17, 2016 at the Pottery Lab.

**4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS**

- A. Call Up Item: University Place Replat D Subdivision (LUR2016-00017) located at 747 12th Street: Final Plat to replat the existing site into two lots.

This item was not called up.

## **5. PUBLIC HEARING ITEMS**

- A. AGENDA TITLE:** Public Hearing and recommendation to City Council regarding annexation of enclaves in the vicinity of 55<sup>th</sup> Street and Arapahoe Avenue.

### **Staff Presentation:**

**C. Meschuk** and **K. Haddock** presented the item to the board.

### **Board Questions:**

**C. Meschuk** and **K. Haddock** answered questions from the board.

### **Public Hearing:**

1. **Gaetano Iannacone** spoke in opposition to the annexation.
2. **Karin Lazarus** spoke in opposition to the annexation.
3. **Ian Barringer (pooling time with Kelly Barringer)** spoke in opposition of the annexation.
4. **Dan Anglin** spoke in opposition of the annexation.
5. **Mark Hartwig (pooling time with Megan Knies)** spoke in opposition of the annexation.
6. **Thomas Kee** spoke in opposition of the annexation.
7. **Grace Guittierrez** spoke in opposition of the annexation.
8. **Ken Morris, Esq.** spoke in opposition of the annexation.
9. **Keith Hoffman** spoke in opposition of the annexation.
10. **Ed Byrne** spoke in opposition of the annexation.
11. **Allyson Feiler** spoke in opposition of the annexation.
12. **Paul Danish** spoke in opposition of the annexation.

### **Board Questions:**

**C. Meschuk** and **K. Haddock** answered additional questions from the board following public comments.

- The Planning Board took a short recess to review the proposed Draft Ordinance with no recommendation presumed.
- The Planning Board returned from recess and agreed to continue deliberation.

### **Board Questions:**

**C. Meschuk** and **K. Haddock** answered additional questions from the board pertaining to the proposed Ordinance.

### **Board Comments:**

**Key Issue #1:** Is the proposed annexation consistent with State of Colorado statutes pertaining to the annexation of a property into the City of Boulder?

- **H. Zuckerman** stated for the record the definition of the purpose of the annexations in the Colorado Revised State Statutes. He argued that the state law looks at the equitable distribution of costs of municipal services. He stated that he is not saying he disagrees

with the staff recommendation; however, this should be considered. The interpretation of the Ordinance will be key.

- **J. Putnam** agreed with **H. Zuckerman** that his argument could be made. He is in support of staff's view. From the perspective of municipal services, all properties are accessible by city streets. These are enclaves from a service perspective and it makes sense to keep within the city.
- **L. May** supported **J. Putnam's** comments and generally supports staff's recommendation. **B. Bowen** and **L. Payton** stated the same.
- **H. Zuckerman** questioned the fairness of this annexation since it was done so quickly, yet the city has the right to annex enclaves at any time. Since proper notice was given, he is in support of staff's recommendation.
- **J. Gerstle** supports the staff recommendation and added that the Comp Plan has recognized these enclaves before the present industries existed.

**Key Issue #2: Is the proposed annexation consistent with the Boulder Valley Comprehensive Plan (BVCP)?**

- **L. May** agreed with staff's recommendation.
- **B. Bowen** disagreed. According to Comp Plan (*Item 1.24, Item C*), he stated that he is not sure this annexation is a public safety improvement issue. While he supports the annexation of enclaves, he does not like the impact it will have on the present businesses within those enclaves. He stated that it does not meet with the Comp Plan.
- **L. May** argued that his interpretation of *Item 1.24* in the Comp Plan is that it would apply to residents rather than businesses.
- **L. Payton** supports staff's recommendation.
- **H. Zuckerman** agreed with **B. Bowen** and added that there are no dangerous qualities to the counties regulations toward marijuana or safety issues. He proposed different language in the Ordinance with different timing to be consistent with the BVCP.
- **J. Putnam** agreed with **H. Zuckerman**. The annexation of the enclaves is needed, however, we need conformity with the Comp Plan, specifically *Item 1.24*.
- **J. Gerstle** agreed with **J. Putnam** and **H. Zuckerman**. While this is consistent with the BVCP, the language of the Ordinance needs to be modified.
- **B. Bowen** added that if the Ordinance was rewritten to work with the existing business, it could be in compliance with the Comp Plan. He suggested creating a timeline.

**Key Issue #3: Is the initial zoning of each property consistent with the Boulder Valley Comprehensive Plan (BVCP)?**

- All board members agreed with staff recommendations.

**Key Issue #4: Should the Planning Board recommend annexation based on the Boulder Valley Comprehensive Plan (BVCP)?**

- **J. Putnam** stated that changes are warranted to the proposed Ordinance but the board is not prepared to do it tonight. He proposed to recommend denial of the annexation at this time unless specific provisions are developed prior to decision by Council that would address many of the concerns of the existing businesses as long as they are consistent with the health and safety of the city.

- **H. Zuckerman** agreed and proposed that a solution that is in the state law be added. He offered the state law (32.12.106.1.1, *Exceptions to Enclaves*) as a solution which discusses an Annexation Transition Committee.
- **B. Bowen** agreed.
- **L. Payton** would not support a denial of the recommendation. So much is at stake and she supports municipalization. She would support recommending to Council the annexation but with directing staff to work out the difficulties with the businesses.
- **B. Bowen** stated he would be more in favor of denying recommendation but he strongly supports municipalization.
- **L. May** supports **L. Payton**. He stated that he would support the recommendation to Council to approve the annexation but with conditions. He suggested that the board be specific regarding the board's concerns. The board needs to address the timeline for compliance and the extent to which people need to comply with the current city regulations.
- **B. Bowen** added that the provision that strikes the distance between business should be kept and that the reinforcement of cost negotiations needs to remain favorable for the affected people. Force annexation implications need to be considered.
- **J. Gerstle** disagreed with **B. Bowen's** comment of "*forced annexation*" and stated it is not appropriate. It is clearly established and legal. Appropriate for the board to recommend to Council that the Ordinance be revised, to be more acceptable to business, to have more time and relax non-safety conditions of operation. The board can do this by recommending the annexation move ahead with additional recommendations.
- **J. Putnam** added that it would be important to have these businesses within the utility because they are very carbon intensive. Be better to have these businesses on a utility that is moving toward carbon improvement. However, the annexation needs to be done correctly.

**Motion:**

On a motion by **J. Putnam** seconded by **B. Bowen** the Planning Board voted 3-3 (**C. Gray** absent) to recommend denial to City Council of the proposed annexations of the 15 parcels with the initial zoning as shown in the staff memorandum unless staff and Council can develop provisions in the Ordinance that would ensure continuity of existing businesses where consistent with health and safety of the city. This should include more flexibility in the timeline for compliance and potential waivers of existing city rules. Motion Failed.

Friendly amendment made by **L. May** to recommend to City Council to approve the proposed annexations of the 15 parcels with the initial zoning as shown in the staff memorandum. Friendly amendment Fails.

On a motion by **J. Putnam** seconded by **L. Payton** the Planning Board voted 6-0 (**C. Gray** absent) to recommend approval to City Council of the proposed annexations of the 15 parcels with the initial zoning as shown in the staff memorandum assuming that staff and Council can develop provisions in the Ordinance that would promote continuity of existing businesses where consistent with health and safety of the city. This should include more flexibility in the timeline for compliance and potential waivers of existing city rules.

Friendly amendment made by **L. May** to change the above motion to read “only if” rather than “assuming that”. Accepted by **J. Putnam** and **L. Payton**.

## **5. PUBLIC HEARING ITEMS**

- B. AGENDA TITLE: CONCEPT PLAN & REVIEW** - Redevelopment of the existing seven-acre apartment site located at 1550 Eisenhower Drive with a new three-story apartment complex Eastpointe Apartment Homes, consisting of 236 proposed units in five buildings with below grade parking and on-site recreational amenities under case review no. LUR2016-00043.

Applicant: Jeffrey Smith  
Developer: Aimco Eastpointe LLC

### **Staff Presentation:**

**C. Ferro** introduced the item.

**E. McLaughlin** presented the item to the board.

### **Board Questions:**

**E. McLaughlin** answered questions from the board.

### **Applicant Presentation:**

**Patti Shwayder** and **Brett Leonhardt**, representing Aimco Eastpointe, LLC, and **Collin Kemberlin** with Tryba Architects, presented the item to the board.

### **Board Questions:**

**Leslie Ewy** with The Sanitas Group, **Brett Leonhardt** with Aimco Eastpointe, LLC, and **Collin Kemberlin** with Tryba Architects, answered questions from the board.

### **Public Hearing:**

1. **Martha Andrews** spoke concerning the parking and the dog park of the proposed project.
2. **Janet Ryden** spoke concerning the parking and the preservation of the trees of the proposed project.
3. **John Ryden** spoke concerning the density and lighting of the proposed project.
4. **Diane Bergin** spoke concerning the parking of the proposed project.
5. **Jean Rachubinski** spoke concerning the southeast corner of the proposed project.
6. **Tom Rachubinski** spoke concerning the construction process of the proposed project and the possible implementation of a memorial for Officer Haynes who lost her life on that site.
7. **Mike Krietzman** spoke concerning the parking, potential flooding and drainage of the project.
8. **Keith Hoffman** spoke concerning the thorough way along the Arapahoe corridor of the proposed project.
9. **Douglas Ertz** spoke concerning the drainage along Eisenhower and Arapahoe and the

lack of affordable housing needs of the proposed project.

**10. John Andrew** spoke concerning the thorough way along the Arapahoe corridor of the proposed project.

**11. Robert Kiser** spoke concerning the construction process and affordable housing needs of the proposed project.

### **Board Comments:**

#### **Key Issue #1: Consistency with Concept Plan Review Criteria**

- **B. Bowen** stated overall it is a good project. Would like to see as many at-grade level entries as possible to the units to create better circulation patterns. He likes the patios outside the ground level units and would like to see at the main streets. Traditional style 8-foot deep porches to allow for a buffer should be included. The revised vehicular circulation scheme is a good improvement. Do not approve of the looped drive through the site. Approved of the termination of views at the entrance. Could include a trellis shade structure and a kitchen feature. He proposed splitting Building #4 into two buildings for pedestrian access. Connections to the property to the south should be considered. In regards to the parking below grade, it should be more of a plaza-like place. He encouraged an art program on site and the memorial for the officer who was shot on site. In the below grade parking area, the bike space could be a gathering space and could be designed as such. The applicant should look at a district-wide energy system. And he encouraged the protection of specimen trees.
- **L. May** said that the project is generally consistent with BVCP. He has concerns regarding the affordability component and diversity of housing unit types. He agrees with **B. Bowen** and staff's comments. Building #4 would work better as two buildings. He supports the parking reduction. The project is consistent with city policies.
- **L. Payton** stated that if the city was serious regarding resilience, sustainability and affordability, then incentives and regulations would be in place to rehabilitate the units and not demolish them. She encouraged moving Building #2 out of the floodplain if possible. She agreed with staff's comments regarding the BVCP *Policy 7.06*. She also agreed with staff that some edges should be converted to two-story massing and that the building typology on the south end of the site should be considered a townhome configuration. Green roofs should be converted to PV roofs. Along Arapahoe Avenue, the path should be made to be a multi-use efficient path with trees on both sides. The site needs playground. She agrees regarding the preservation of mature healthy trees. Agrees with **B. Bowen** regarding the memorial for the officer, breaking up Building #4, and the terminal vista from Eisenhower. Ground water studies are needed. Finally, the six-foot wide tree wells over the parking structure are inadequate.
- **H. Zuckerman** would like to see mixed use on site, permeability on site, to connect with the east commercial properties, height transitioning down to the single-family residential and address plans for affordability. These were also as mentioned in **C. Gray's** emailed comments. He stated that the project is a great design. Arapahoe Avenue is currently so wide so can get away with taller buildings. Taller buildings along Arapahoe and smaller to the south such as townhomes and additional streets makes sense. He stated that he would like to see street parking restored along Eisenhower. On-site affordable housing would be ideal for this site.

- **J. Putnam** agreed with making Arapahoe an effective transportation corridor for bikes and pedestrians. Curb greenery would be beneficial. Good design and good use for the site. Accomplish high density site. There are many opportunities to have on-site affordable housing and that is missing. He suggested the applicant look for partnerships. In regards to architectural styles, it would be helpful to reduce the repetition. Need to do a lot with the street face of Arapahoe and this would be a good opportunity with the design and landscaping. He suggested looking for creative opportunities such as putting in a community center, residential art for street interest, or shops. In regards to Building #2 in flood plain, he is less concerned. He recommended building more of a buffer than what is required, put in more elevation and flood proofing. He is in favor of roof decks and would be good amenity. It would be critical to have EV charging stations and PB on the roof. The board would like to see how the applicant intends to comply with the tough energy code and possibly exceed it. Finally, he asked the applicant to look at opportunities regarding sub-metering and have residents participate in the renewable energy aspects.
- **J. Gerstle** agreed with most everything. Encouraged mixed use along the Arapahoe corridor. Consider more on-site affordable housing and he encouraged the applicant work with institutions in Boulder. He stated that the site does need a dog park, but does not have an opinion as to where. Also, he stated he approves of green roofs. In regards to roof decks, he is in full support. Permeability of project is very important and passage to the south property with a path is very important.
- **B. Bowen** stated that there is some board support for along Arapahoe for mixed use buildings and elevating out of the flood plain. Those two items may make the board amenable to a height modification for those buildings along Arapahoe.
- **L. May** suggested parking not be a part of the rent or come with the unit.

### **Key Issue #2: Concept Plan Response to Surrounding Residential Context**

- The board had no comments on this Key Issue.

### **Board Summary:**

**J. Gerstle** gave a summary of the board's recommendations. Since this is a Concept Review, no action is required on behalf of the Planning Board. The board felt that the proposed plan was generally consistent with the Comp Plan and responsive to the neighborhood. Specifically, it would be beneficial to have grade level entrances and defensive spaces for individual apartments. The board suggested dividing Building #4 into two separate buildings. The board also suggested connecting to south the proposed site to the adjacent site with foot paths. The board had concern about making the egress from the sub-surface garage attractive and usable and at the same time providing daylight to the sub-surface garage. The proposed landscape plans were attractive, but the board asked the applicant to consider innovative energy systems in terms of renewable and in addition to what the Code requires. There was general support for the requested parking reduction. On-site affordable housing should be seriously considered. Building #2 should be moved out of the 100-year flood plain if possible. The board propose the convert the buildings to two-stories along the south and east elevations. Some board members showed a lack of enthusiasm for the proposed "green roofs" and suggested PV roofs. The board expressed concern regarding the multi-use path along Arapahoe Avenue and that it provides sufficient capacity but

not making the public go too fast but still regarded as a serious transit corridor. There was a suggestion that a playground be incorporated in the southeast pocket park. Efforts should be made to preserve the mature trees located on site. An implementation of a memorial for Officer Hanes on-site would be beneficial. The board had strong concerns regarding the ground water impact of the sub-surface garage, therefore there needs to be clear studies done. The board suggested possibly enlarging the tree wells above the garage or make sure that they will be adequate. The board encourages the consideration of mixed use on site. The board felt the parking should be unbundled. There was a recommendation that this proposal should go to the Design Advisory Board (DAB) for review. Finally, the board suggested the proposed buildings flood proof beyond the FEMA requirements.

**6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY**

**7. DEBRIEF MEETING/CALENDAR CHECK**

**8. ADJOURNMENT**

The Planning Board adjourned the meeting at 10:43 p.m.

APPROVED BY

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Board Chair

\_\_\_\_\_  
DATE